

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

GILBERT JAMES,

Plaintiff,

v.

Civil Action No. 3:11cv00221

ENCORE CAPITAL GROUP, INC., *et al.*

Defendants.

DEFENDANTS' STATUS REPORT

Defendants, Encore Capital Group, Inc., Midland Funding, LLC, and Midland Credit Management, Inc. (collectively, the "Midland Defendants"), by counsel, and pursuant to the Court's Order of January 26, 2012 (Dkt. No. 131), hereby submit the following status report regarding the parties' proposed Pretrial Scheduling Order.

The Court's January 26, 2012 Order directed the parties to advise the Court on the status of the outstanding discovery and scheduling issues. The Midland Defendants have been working diligently since the hearing to gather the documents addressed by the Court's Order, and as set forth by the Court at the hearing on January 23, 2011. The outstanding discovery issues can be segregated into two groups: the discovery requests that specifically target electronic discovery (Plaintiff Request Nos. 9-12) and all other requests. This status report addresses those groups separately.

Electronic Discovery

With respect to electronic discovery, as set forth in the Midland Defendants' briefing, a search of the identified custodians' email archives for emails dated between January 1, 2009 and the date Plaintiff commenced this action and that include the word "affidavit" anywhere in the

message yields nearly 50,000 emails, which does not include the large number of anticipated additional attachments.

The Midland Defendants have been working in concert with the electronic data management and discovery team at Troutman Sanders since the hearing date to gather the data implicated by the Court's Order. This process, however, has been delayed by significant unexpected technical issues within the Midland Defendants' email system. While they appear to have successfully identified the responsive email records, unforeseen technical issues have prevented them from successfully exporting those files for transfer to Troutman Sanders. The Midland Defendants' IT staff has been working with their email archive software vendor to resolve this issue, which they expect to resolve within a matter of days. Once that occurs, the data will be loaded onto and hosted in a review platform.

Preliminary estimates indicate that this review will likely take somewhere between three to four weeks to complete, at a cost of several hundreds of thousands of dollars. The Midland Defendants will further advise the Court once the e-discovery harvesting has been completed, a budget has been prepared as well as of any associated logistical, practical and/or scheduling issues or concerns connected with the e-discovery.

All Other Discovery

With respect to the additional documents addressed by the Court's Order, the Midland Defendants have made significant progress and expect to have a substantially full production in this regard within the next two weeks. The Midland Defendants will begin a rolling supplementation of this process this week.

Counsel for the Midland Defendants has apprised counsel for Plaintiff as to the status of the efforts of the Midland Defendants regarding the outstanding discovery and scheduling issues.

The Midland Defendants continue to believe that the process set forth in their Status Report of January 13, 2012 (Dkt. No. 128) should apply to the outstanding case management issues, whereby a date certain for expert disclosures should be set, with discovery closing for both parties in sufficient time to permit the full briefing of any motion for summary judgment at least five weeks before trial. The Midland Defendants also contend that discovery should only be reopened for both parties with respect to any documents and information revealed after the close of the parties' formal meet and confer process on November 28, 2012. The parties, however, have yet to reach agreement on any such proposal.

**ENCORE CAPITAL GROUP, INC.,
MIDLAND FUNDING, LLC and
MIDLAND CREDIT MANAGEMENT, INC.**

By: /s/ David N. Anthony

Of Counsel

David N. Anthony (VSB No. 31696)
Timothy J. St. George (VSB No. 77349)
*Attorneys for Encore Capital Group, Inc., Midland Funding, LLC
and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1200
Facsimile: (804) 698-5118
david.anthony@troutmansanders.com
tim.stgeorge@troutmansanders.com

John C. Lynch (VSB No. 39267)
*Attorney for Encore Capital Group, Inc., Midland Funding, LLC
and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, Virginia 23462
Telephone: (757) 687-7765
Facsimile: (757) 687-1504
john.lynch@troutmansanders.com

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February 2012, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing System, which will send a notice of electronic filing to:

Leonard A. Bennett, Esq.
Susan M. Rotkis, Esq.
CONSUMER LITIGATION ASSOCIATES, P.C.
763 J. Clyde Morris Blvd, Suite 1A
Newport News, VA 23601
Telephone: (757) 930-3660
Facsimile: (757) 930-3662
Email: lenbennett@cox.net

Matthew J. Erausquin, Esq.
CONSUMER LITIGATION ASSOCIATES, P.C.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
Telephone: (703) 273-6080
Facsimile: (888) 892-3512
Email: matt@clalegal.com

Dale W. Pittman, Esq.
THE LAW OFFICE OF DALE W. PITTMAN, P.C.
The Eliza Spotswood House
112-A West Tabb St.
Petersburg, VA 23803
Telephone: (804) 861-6000
Facsimile: (804) 861-3362
dale@pittmanlawoffice.com

Counsel for Plaintiff

/s/David N. Anthony
David N. Anthony
Virginia State Bar No. 31696
*Attorney for Encore Capital Group, Inc., Midland
Funding, LLC and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1254
Facsimile: (804) 698-6013
david.anthony@troutmansanders.com